

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

May 5, 2003

3:34 p.m.

MEMBERS PRESENT

Senator Scott Ogan, Chair
Senator Thomas Wagoner, Vice Chair
Senator Fred Dyson
Senator Ralph Seekins
Senator Ben Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 149

"An Act relating to timber and to the sale of timber by the state."

MOVED CSSB 149(RES) OUT OF COMMITTEE

SENATE BILL NO. 185

"An Act providing for a reduction of royalty on certain oil produced from Cook Inlet submerged land."

HEARD AND HELD

BOARD OF FISHERIES APPOINTMENTS:

Mr. Melvan E. Morris, Jr.
Mr. Ed Dersham
Mr. Art Nelson
Mr. Floyd F. Bouse, DDS
CONFIRMATIONS ADVANCED

PREVIOUS ACTION

SB 149 - See Resources minutes dated 5/2/03.

SB 185 - No previous action to record.

WITNESS REGISTER

Ms. Bobby Jo Skevo
No address provided

POSITION STATEMENT: Opposes CSSB 149(RES)

Mr. Jeff Jahnke
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Answered questions about CSSB 149(RES)

Ms. Nancy Fresco
Northern Alaska Environmental Center
830 College Rd.
Fairbanks, AK 99708

POSITION STATEMENT: Expressed concerns about CSSB 149(RES)

Mr. Robert Ott
Tanana Chiefs Conference
122 First Ave.
Fairbanks, AK 99701

POSITION STATEMENT: Supports SB 149 with some changes

Mr. Eric Pyne
Boreal Forest Products &
International Woodcutters Association
PO Box 82694
Fairbanks, AK

POSITION STATEMENT: Supports CSSB 149(RES)

Ms. Jan Dawe
Alaska Boreal Forest Council
PO Box 84530
Fairbanks, AK

POSITION STATEMENT: Expressed concerns about CSSB 149(RES) and suggested an amendment

BOARD OF GAME NOMINEES

Mr. Melvan E. Morris, Jr.
917 Mill Bay Road
Kodiak, AK 99615

Mr. Ed Dersham
Box 537
Anchor Point, AK

Mr. Art Nelson

431 W 7th Ave #103
Anchorage, AK 99504

Mr. Floyd F. Bouse, DDS
4020 Dunlap Ave.
Fairbanks, AK 99709

ACTION NARRATIVE

TAPE 03-39, SIDE A

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:34 p.m. All members were present except Senator Wagoner. Chair Ogan called a brief at-ease and, upon reconvening, said the committee would first take up SB 149.

SB 149-TIMBER/ TIMBER SALES/ STATE FORESTS

CHAIR OGAN reminded members that the committee had adopted a committee substitute (CS), Version H, as its working document at the last meeting and announced the committee would take public testimony.

MS. BOBBY JO SKEVO (ph), representing herself, said the CS dramatically weakens the planning process for timber management on state lands. She said the existing five-year management plan process works. When people know a timber sale is coming up, they have the opportunity to plan ahead. She added that salmon habitat is always a significant state interest.

CHAIR OGAN noted that Mr. Jeff Jahnke, State Forester, was available to answer questions.

SENATOR ELTON noted the deletion of language on page 2, lines 2-4, requiring the commissioner to consider information that describes immediate and long term effects of forest activities on the timber base and on other resources and uses. He asked Mr. Jahnke whether the information that describes immediate and long-term effects is useful.

MR. JEFF JAHNKE, Division of Forestry, Department of Natural Resources (DNR), said the intent is to remove the requirement to provide information on the collective effects on a forest land use plan (FLUP) for a relatively small area of the landscape. The Division of Forestry believes the collective effects analyses would be better placed in the area plan and the forest management plan for the state forest.

SENATOR ELTON asked Mr. Jahnke to describe "collective forest activities" and suggested eliminating the word "collective" if the terminology is the problem.

MR. JAHNKE said by "collective effects" he means the effect of multiple actions across the landscape or across a watershed as opposed to an individual project.

SENATOR ELTON asked why it is a bad idea to have that information.

MR. JAHNKE said he is not saying it's a bad idea, he believes the best place for that information is in the broader scale area plan and forest management plan.

SENATOR ELTON referred to language on page 4, line 10, which says the primary purpose of establishing state forests is timber management. He asked:

Are we talking about just when state forests are established and why they are established or are we suggesting that, for example, if you take a look at the Haines State Forest where there are competing uses, including an increasing demand from tourism operators who are accessing that area, does this suggest that timber trumps tourism each and every time?

MR. JAHNKE said he believes it means timber has priority if there is a conflict between the two.

SENATOR ELTON asked:

If there is an established tourism organization that is doing canoe or raft float trips down a river that runs through the Haines State Forest and if there is a proposal that there be a timber harvest in adjacent lands to where that float trip is utilizing it ... this language to me suggests that that timber operation would always be prioritized over an established business that is currently that part of the state forest. Would that be a correct assumption on my part?

MR. JAHNKE said only if there is, in fact, a conflict between the two users.

SENATOR ELTON said he was assuming that it is easy to perceive a conflict on the part of the float trip operator. He then referred to language on page 4, line 5, and asked if there is a statutory definition of the term "compelling state interest."

MR. JAHNKE said he is not aware of a definition in statute. However, he is aware of substantial case law that identifies what a "compelling state interest" is.

SENATOR ELTON asked Mr. Jahnke if he is referring to the judicial system.

MR. JAHNKE replied, "I think that the definition that has come about as a result of reviewing 'compelling state interest' in the court system would be looked at as providing guidance to what 'compelling state interest' is."

SENATOR ELTON commented that it would be interesting to know if DNR uses a grid to determine a "compelling state interest" and requested a copy of such a document before SB 149 reaches the Senate floor.

CHAIR OGAN indicated the grid would be art. VIII, sec. 1, of the Alaska Constitution, which says resources should be developed for the maximum benefit of the people. They also must be managed on a sustained yield basis subject to preferences amongst beneficial uses. He said the Constitution clearly provides authority to establish a preference. He reads this bill to say the highest use of state forests is for timber production. He said some would argue that not doing that would be poor stewardship. He maintained that the forests around the Haines area are not healthy because of spruce bark beetle infestation. He pointed out that forest fires do not occur in Southeast so the other way to manage timber is through the sustained yield principle of timber harvest.

SENATOR ELTON said it sounds to him like Mr. Jahnke has a pretty good notion of what a "compelling state interest" is based on court cases and asked for that information before SB 149 reaches the floor.

MR. JAHNKE agreed to provide information.

SENATOR LINCOLN said she asked Mr. Jahnke the same question at the last meeting and Mr. Jahnke was supposed to provide a definition to the committee.

SENATOR SEEKINS said he believes it is important that members remember the State of Alaska has some very strict riparian standards that require 100 or 200-foot buffer zones along the river, as well as harvest limits. Those standards would make it very difficult to not enjoy a float trip on a glacial river in the Haines State Forest. He expressed concern that:

We're creating the wrong picture when we think that it's an either-or situation and that for some reason that it would be offensive to every tourist that came into the state if they were to see where someone had cut down a tree in order to provide jobs for Alaska people. So, in the terms of multiple use, the agriculture department with the national forests - multiple use originally meant that it allowed things like timber harvesting, mining, cattle grazing, as well as other uses, but it didn't mean that you couldn't timber harvest if someone was going to object that it might take away their idea of what a pristine view should be. There are millions of acres of national parks in the State of Alaska that accommodate that. There are darn few forests. And to be able to say that some of these forests should be put to use to be harvested to be able to sell timber, to be able to employ Alaskans, ... that if for some reason that that were to offend an individual of some kind who didn't want to see that, I don't think is good policy for the state.

[SENATOR WAGONER arrived.]

CHAIR OGAN said he would continue to take public testimony at this time.

MR. ALBERT POTT, a Fairbanks sawmill operator for the last 33 years, said he would like to see this legislation pass as is because it puts the state's forests back to their primary purpose. The original state forest bill passed because 253,000 acres was set aside for the Chena Hot Springs recreation area and because land earmarked for timber harvest was being "chopped up" for other purposes. When that legislation was being considered, the state forester and deputy commissioner of DNR opposed it because they believed it took too much land for one use. The result was the establishment of 14 uses compatible with timber harvest. Over the years, timber harvest has become secondary to all of the other uses.

MS. NANCY FRESCO, Northern Alaska Environmental Center (NAEC), told members that although the Tanana Valley State Forest comprises only 2,000,000 acres, it is under some of the greatest competition for multiple use. The NAEC believes the multiple use designation is the most appropriate one. She pointed out that under the current plan, almost all of the land in the Tanana Valley State Forest is harvested on a sustained yield basis. It is a working forest used for hunting, fishing, non-timber products, recreation and tourism. The economic value of those uses has not been measured. A study is being undertaken right now to place a value on the other uses. SB 149 puts the cart before the horse by placing timber harvest as the top priority.

MS. FRESCO told members she has a Masters degree in forestry and environmental studies so this issue is near and dear to her heart. She said before any changes are made to the status of value-added, the state needs to determine some means of showing what value is being added to the trees and it needs to provide a more flexible definition which adding to the list will not do. Regarding buffer zones, SB 88 adds buffer standards to interior waterways. A lot of scientific and community effort went into reaching agreement on SB 88 but that legislation has not yet been enacted. She would hate to see [SB 149] undermine those efforts. She emphasized that a lot of positive public effort was made to make the Tanana Valley State Forest a working, multiple use forest. It would be a mistake to change that designation at this point in time, after so many people have worked to find a balance between all of the viable uses.

CHAIR OGAN stated that Senator Lincoln has proposed an amendment, which he supports, that deletes "41.17.230(c)" on page 5, line 17. It retains the public hearing process requirement.

SENATOR LINCOLN explained the amendment [Amendment 1] would retain the section that reads:

A management plan may not be adopted or revised after the establishment of the state forest without prior review by the Board of Forestry and by other appropriate state agencies or without prior public hearing held in a community approximately located to the state forest or to a unit of a state forest.

She moved to adopt Amendment 1.

SENATOR BEN STEVENS objected and asked for time to consider it.

CHAIR OGAN informed those who are testifying that the committee is considering retaining the public process provision.

4:00 p.m.

MR. ROBERT OTT told members that the Tanana Chiefs Council (TCC) supports most of the changes in CSSB 149(RES) but it remains concerned about a few issues. TCC's first concern is in the change to the primary purpose of the forest from multiple use to timber production. He pointed out the current [statutory] language says multiple use provides for production, utilization, and replenishment of timber resources so it already emphasizes timber. The Tanana Valley State Forest is a public forest; not a tree farm. TCC is concerned that people deriving income from non-timber forest products may be shortchanged if a big timber industry were to develop. TCC believes that anyone looking to derive revenue from the state forests should have equal opportunity to do so. The emphasis should not be on timber at the exclusion of other things if a conflict arises.

MR. OTT said TCC's second concern is with Section 14. Removing the requirement to review the plan every five years seems too open-ended. TCC believes there should be some maximum time period within which the forest plan must be reviewed to keep it up-to-date with new management approaches and public concerns. That change removes a time period that is, perhaps, too short to be reasonable but replaces it with no timeframe.

MR. OTT said that TCC supports Senator Lincoln's amendment. TCC is concerned about removing the Board of Forestry review and public hearing process prior to the adoption of forest management plans. He said TCC's final concern is with Section 7; high value added wood products are finished products but pulp has been added to that list. Pulp is an intermediate process product. It is more finished than wood chips but it is not a finished product to the degree the other items on the list are. He suggested some "wordsmithing" could clean that section up. He repeated that other than those concerns, TCC supports the legislation.

CHAIR OGAN asked Mr. Jahnke why the requirement to review the forest management plan at least once every five years is being removed. He asked when a review would be considered necessary.

MR. JAHNKE said the division looked at that requirement and realized the Tanana Valley Forest Plan took five to seven years to complete so a review every five years seemed too frequent to be efficient. The division felt the drive to change a forest management plan should be triggered by a significant change in condition or in the market that does not fit within the timeframe of the existing plan.

MR. DAVE LACEY told members he was involved in the public process on the Tanana basin management plan and the state forest for many years. He is concerned this legislation will toss out efforts made by the public to develop those plans. He believes the emphasis on a single purpose of timber management is short sighted. He is aware of the state's immediate revenue needs, but a long-term outlook must be kept. He said the state must be as conservative as possible in its management because of future unknowns. Cumulative impacts of multiple uses must be taken into consideration. He has been involved in the tourism and recreation industries for years. He does not want to see those residents who make their living from those industries pushed aside for a single use emphasis. He supports the buffer zones in SB 88 to protect recreational and commercial fishing in the Interior.

MS. JAN DAWE, Alaska Boreal Forest Council, stated support for several sections of CSSB 149(RES), especially those that make the process less burdensome for the operators to get access to timber sales. Simplifying the timber sale schedules will save money. She suggested including a sunset clause for portions of the management plan that have not been revised. The Council agrees that requiring a review once every five years is too frequent but would like to see language included to say that portions of the management plan would be reviewed. The Council's main concern with the bill is changing the primary purpose of state forests. She read an amendment suggested by the Council:

The primary purpose in the establishment of state forests is forest management that provides for the production, utilization, and replenishment of commercial timber and non-timber resources while allowing other beneficial uses of public lands and resources.

MR. ERIC PYNE, Alaska Forestry Products, said the recently held election in November showed that the majority of Alaskans favor resource development. Changing the emphasis of the state forests to timber management will go a long way toward encouraging

industry to invest in Fairbanks, Delta, Nenana, and outlying areas. Those investments create jobs and allow local people to create a lifestyle they enjoy.

MS. DAWE explained to members that the Council's intent in requesting the proposed amendment is that all extracted forest products be given equal weight. The rationale is that there are a lot of special use areas in the state where birch bark or sap and other products cannot be extracted. University researchers have said that decades of resource management reports support multiple resource management rather than single resource management. The Council is also working on an economic development project with the schools to make birch syrup. One local person plans to go into commercial production next year using about 2,000 trees. The Council is trying to look forward to what future resource development might look like. It is not trying to distract from timber management. She repeated the Council wants the primary purpose of the state forest to be multiple use.

CHAIR OGAN announced that public testimony was closed.

SENATOR BEN STEVENS removed his objection to the adoption of Amendment 1, therefore it was adopted.

SENATOR BEN STEVENS moved CSSB 149(RES) from committee with individual recommendations.

SENATOR ELTON objected.

CHAIR OGAN stated that he sees this legislation as an attempt to get more timber into the hands of value-added processors in the state. He supports this legislation contingent upon that happening; he encouraged the Division of Forestry to do all it can to make that happen. He said he is aware of constitutional limits and the Interstate Commerce Clause, which prevent the state from banning the export of logs. He said he will be monitoring this legislation and wants to be briefed by the Division on how much of this timber is used for value-added products.

The motion to move CSSB 149(RES) from committee carried with Senators Stevens, Dyson, Seekins, Wagoner and Ogan in favor, and Senators Lincoln and Elton opposed.

The committee took a brief at-ease.

4:10 p.m.

CONFIRMATIONS: BOARD OF FISHERIES

CHAIR OGAN asked Mel Morris to testify and asked him why he wanted to serve on the Board of Fisheries.

MR. MEL MORRIS told members that he has spent his life in Alaska and studied wildlife management at the University of Alaska. He has sport and commercial fished, worked as a biologist and worked in marketing and selling. He said the short answer is that the resource has been good to him and now that he is retired, he has a chance to use his previous experience working with the stakeholders in the fishing industry.

CHAIR OGAN asked Mr. Morris if he is from Kodiak.

MR. MORRIS said he is.

CHAIR OGAN said the last Board of Fisheries made a lot of changes to the Cook Inlet Management Plan. Biologists have stated on the record that a large red salmon run puts a gauntlet across Cook Inlet and the escapement to the northern part of the Matanuska Valley suffers. He said there has been a turnaround in the management of that area during the last two years and fish returns to the northern valley have improved. He asked Mr. Morris what he knows about the cause and effects of managing primarily for the Kenai River on the upper Cook Inlet fisheries, specifically the Susitna River.

MR. MORRIS said he has not heard any public testimony on or discussed that topic to date. He said he is a good listener and will be looking forward to dealing with the issue.

SENATOR SEEKINS asked Mr. Morris on what basis the board reversed its decision on the customary and traditional (C&T) finding for the Chitina dipnet fishery and whether he agreed with that finding.

MR. MORRIS said he agreed with the reversal from a subsistence fishery to a personal use fishery. He said that was a very contentious issue. The board heard a lot of testimony and got new information since 1999 from the Division of Subsistence's survey, which provided information on the subsistence use of that fishery. The board voted 6:2 to look at the new information.

TAPE 03-39, SIDE B

MR. MORRIS said what jumped out at him was that over 80 percent of the participants had been in the fishery less than five years and over 50 percent were self-taught, indicating there was not a long history of trans-generational participation. The board dealt with eight criteria; numbers 4, 5, and 8 were important to his decision. They dealt with the social aspects of the fishery as they related to a subsistence way of life and intergenerational, long-term, non-commercial use. He said he was on the committee that worked with participants on both sides of the issue. The data from the survey led him to believe that the Chitina dipnet fishery did not qualify as a subsistence fishery.

SENATOR SEEKINS asked Mr. Morris if part of his decision was based on the status of the users, not the uses.

MR. MORRIS said he did not understand the question.

SENATOR SEEKINS asked if part of Mr. Morris's decision was based on who was actually participating in the fishery, not the uses of the fish.

MR. MORRIS said not necessarily because he does not know the individuals. He said the survey indicated that of the people who were using the fishery, close to 80 percent had participated in the fishery less than five years.

SENATOR SEEKINS said that answers his question and that part of Mr. Morris's decision was based on the status of the users rather than the status of the uses.

CHAIR OGAN asked Mr. Morris if he is familiar with art. VIII, sec. 4 of the Alaska Constitution, which says that resources should be managed on a sustained yield basis subject to preferences amongst beneficial uses. He clarified that Senator Seekins was trying to determine if Mr. Morris understood the difference between a use and a user.

MR. MORRIS said he did not feel that the fishery qualified because of the reasons he gave.

SENATOR LINCOLN said she appreciates the fact that Mr. Morris has been in Alaska over 45 years and lived in the Interior for a year. She thanked him for his decision on the Chitina dipnet fishery. She said her concern is with Mr. Morris's possible lack of familiarity with the inland fisheries.

MR. MORRIS said he worked as a biologist in the Kuskokwim area from 1961 to 1963 and he worked for the Division of Game for one year in the Interior. He said he met quite a few people [from the Interior] while attending the University in Fairbanks. He plans to educate himself on Interior issues, as well as on Southeast issues, where he has spent very little time. He has worked closely with the public and staff and has been very active in the committee process in Southeast. He plans to do the same in the Interior.

SENATOR LINCOLN said she appreciates Mr. Morris's desire to learn more about the parts of Alaska he is less familiar with. She then asked Mr. Morris's belief on the Board of Fisheries' role in carrying out the mandate for a subsistence priority.

MR. MORRIS said the board has dealt with subsistence issues in Ketchikan and Sitka. The board heard a lot of testimony about the traditional uses of certain resources. Some of the testimony showed a longstanding harvest of specific resources in specific areas over many generations. He said he believes the board needs to listen to the public and learn.

CHAIR OGAN asked what he sees as the one thing the board can do to help the commercial fishing industry in the state. He noted that industry is suffering everywhere because of competition from farmed fish.

MR. MORRIS said many people do not see the commercial fishing industry as one industry or one unit. Some people believe that no processors should be involved in the quota system. He believes the Governor has come up with the right approach to provide funds for entrepreneurial efforts. He said a number of fishermen in Kodiak are thinking about putting freezers on their boats to provide a better product. He believes in ASMI's educational efforts to inform people that harvesting a wild resource does not mean that all of the wildlife is being killed. He said it is important that Alaska gets the message out that its fish are from a pristine environment. In addition, Alaska has to deal with the fact that most of the farmed fish industry is subsidized. If Alaskan fishermen must continue to compete with farmed fish, they will need special considerations, such as reinvestment tax credits, to provide a better product. He said many things can be accomplished working as one industry.

CHAIR OGAN asked Mr. Morris if he believes more allocation is part of the answer regarding salmon.

MR. MORRIS said he does not know how that would play out. He said it is necessary to make more [products] from what we have.

CHAIR OGAN said he agrees that a simple allocation scheme will not fix everything. He then informed members he would consider forwarding the names of appointees for the Board of Fisheries to the Senate floor on an individual basis.

SENATOR WAGONER moved the nomination of Mr. Melvan Morris to the full Senate for consideration.

CHAIR OGAN announced that without objection, the motion carried. He then asked Mr. Nelson to testify.

4:42 p.m.

MR. ART NELSON, appointee to the Board of Fisheries, told members that as a lifelong Alaska resident involved in the fisheries, he has seen the Alaska fisheries from different perspectives and hopes to be a positive addition to the board.

SENATOR SEEKINS asked Mr. Nelson the basis for reversing the C&T designation on the Chitina dipnet fishery, whether he agreed with that finding and, if so, why.

MR. NELSON said he believes Mr. Morris answered that question well. He said the board first examined the new information prepared from the Division of Subsistence's user survey and found it contained significant new information that warranted reexamination of the C&T criteria. After examining the criteria, he voted to reverse the C&T finding and return the fishery to a personal use fishery. He said, regarding differentiating between use and users, many of the criteria focus on aspects of the uses, for example transfer of knowledge between generations.

SENATOR SEEKINS asked Mr. Nelson if he would consider the fact that his family, including his father, self, son and grandsons, has used that dipnet fishery and passed down traditional information for four generations.

MR. NELSON said he agrees that some users of that fishery would fall into the C&T category more than the vast majority but that raised the question of what portion of the users should be used as the measuring stick and where to draw the line.

SENATOR SEEKINS asked if it is fair to say that at least a major portion of his decision was based on the [characteristics of the] user, not on how the fish was used.

MR. NELSON replied that with the criteria the board had to use, it was very difficult to separate the users, particularly when looking at patterns of use.

SENATOR SEEKINS asked who actually performed the user survey.

MR. NELSON said the Division of Subsistence staff compiled the survey.

SENATOR SEEKINS asked if the work was contracted out.

MR. NELSON said it was not, but the division had some assistance from an individual from the Ahtna Corporation.

SENATOR SEEKINS asked for a description of some of the new information used by the board.

MR. NELSON said the survey was very detailed. It examined the users and profiled the long-term pattern of use and particularly how long each individual participated in that fishery.

SENATOR SEEKINS asked Mr. Nelson if he voted to reverse the C&T category.

MR. NELSON said he did.

SENATOR WAGONER asked Mr. Nelson if he believes the board should continue the process it currently uses, which entails using subcommittees, or whether it should go back to using advisory committees only.

MR. NELSON said he believes a combination of both is best. He said the board's current committee process is extremely valuable. It provides the public with a much-improved opportunity to interact with board members and to hash out different ideas. He said before the committee process was in place, a person would provide testimony and then try to talk to a board member during a break. He said the advisory committees still have a very valuable role with local representatives and their ability to hold meetings prior to the board meetings.

SENATOR LINCOLN thanked Mr. Nelson for submitting his name for reappointment. She asked what he believes the Board of

Fisheries' role is in carrying out the state's mandate for the subsistence priority.

MR. NELSON said that is a good question that he could think about for a long time. He has worked on subsistence issues in western Alaska in the past. Once the board makes a positive C&T finding, by statute it must make sure that it provides a reasonable opportunity for people's subsistence needs to be met. He said, in his opinion, it is a very important issue the board needs to address.

SENATOR LINCOLN asked Mr. Nelson if he supports a constitutional amendment for a rural subsistence priority.

MR. NELSON said at this point he does but he believes there are different ways to look at the issue. He would like to see a resolution that ensures that sustained yield is met and that the users who need it the most get the first opportunity, whether that entails a local preference or a rural preference.

SENATOR WAGONER noted that there are a lot of allocation problems in some of the fisheries between sport, personal use, subsistence, and commercial users. He asked how Mr. Nelson feels about the board making decisions based on maximum sustained yield and on allocating the resource where it is used to its maximum.

MR. NELSON said once the sustained yield mandate is met and subsistence uses are provided for, allocating the remaining resources for the rest of the user groups is always a balancing act. He does not feel any of the remaining groups have a priority over another group but, in some areas it may be more important to lean harder on the sport side and, in other areas, on the commercial side.

CHAIR OGAN informed members he would like to take testimony on SB 185 today and planned to recess to the call of the chair to continue the meeting tomorrow.

SENATOR WAGONER moved that Mr. Nelson's nomination to the Board of Fisheries be put before the full Senate for consideration.

CHAIR OGAN stated that without objection, the motion carried.

SENATOR ELTON apologized that he had to leave at 5:00 p.m. but wanted to pass along his endorsement of Rupe Andrews as a Board of Fisheries member.

CHAIR OGAN called Ed Dersham to testify.

MR. ROBERT (ED) DERSHAM, a resident of Unalaska, told members he has served on the Alaska Board of Fisheries for six years. During that time, he has become a great supporter of the public and regulatory process for Alaska's fisheries. Since the board's inception, the delegation of authority from the legislature to develop Alaska's fisheries resources has led to policies and procedures over time. The recent subcommittee system provides for a better public process than that in any of the western states. He has served as the chair of the board for the last two years. The board has five new members now. He asked to be reappointed for another term because he believes his knowledge of the process will be beneficial to new members.

CHAIR OGAN stated:

...the balance of the people in my neck of the woods are holding their breath to see what happens. We've had a major shift in philosophy on the board and you've heard my concerns about managing Cook Inlet for the Kenai River - if we get a big run there - I remember well years ago testimony by the Department of Fish and Game saying yea, the upper Susitna's pretty much managed by default when we get a big run of fish in the Kenai River. What can you say that will get me off the hook, so to speak, with my sport fishermen in the Valley that are worried about this current board?

MR. DERSHAM said he has worked with four of the new board members since January and has been very impressed with the Governor's choices in that all four are very fair-minded people, hard workers, and none of them came to the board with a private agenda. He said they study the issues in depth. He believes everyone who comes before them has a good opportunity to testify, lobby, and affect the outcome.

CHAIR OGAN asked if he is aware of the problem of managing the Upper Cook Inlet by default when the fish run in the Kenai River is large.

MR. DERSHAM said the board has done many, many days of work on that issue over the last six years. That work resulted in many of the regulations that are in place today that give Valley residents more comfort. He has supported most of those regulations. He said he believes this board will take these

issues on a case-by-case basis and fairly apply the allocation criteria to the final solution.

SENATOR SEEKINS asked Mr. Dersham what, in his opinion, was the basis for reversing the C&T finding for the Chitina dipnet fishery and whether he agreed with that finding.

MR. DERSHAM said he did agree with the finding. He sat on the board both in 1999 and this year when this issue came up. The issue has been very difficult both times. He said he believes that the C&T issue is a microcosm of defining subsistence. Both times, he came to the same conclusion. In reviewing criteria number 8, the pattern of use and dependence on the resource, he did not feel the pattern of use over the last 40 years met that test. That does not mean he does not believe that fishery is not important to the state.

SENATOR SEEKINS asked Mr. Dersham what weight he gave to the user survey in making his decision.

MR. DERSHAM said the board took two votes. The first was on whether to bring the issue up for reconsideration based on new information or an error on the part of the prior board. The vote was 5 to 2, based on the decision that new information was provided. After that vote was taken, he relied on the same agonizing process used in 1999. He found a few things in the survey but based his decision primarily on the same information he used in 1999.

SENATOR LINCOLN thanked Mr. Dersham for his willingness to continue to serve and asked his position on the board's role in carrying out the state's mandate for a subsistence priority.

MR. DERSHAM said the board members are the regulators that oversee the subsistence priority. They provide a reasonable opportunity to harvest the needed amount to specific subsistence cases.

SENATOR LINCOLN asked Mr. Dersham if he supports a constitutional amendment for a rural subsistence priority.

MR. DERSHAM said he does and that mostly goes to his lack of faith in the federal government. He said his prior career was with the federal government and he has knowledge of the processes it uses. He feels if there was a rural subsistence priority, all Alaskans would be better protected and their access would be better cared for with Alaskans making the

decisions as opposed to regional federal directors who have little experience in Alaska.

SENATOR LINCOLN asked Mr. Dersham what he believes the role of fish hatcheries are in Alaska.

MR. DERSHAM said they vary in different parts of the state. They've been extremely beneficial to the commercial fisheries in Southeast but that has caused some difficulty in Western Alaska, which has suffered declining runs at the same time. He said it is a complicated issue and requires one to look at all of the aspects when making decisions. However, the board's authority in making decisions about hatcheries is fairly limited.

SENATOR SEEKINS asked Mr. Dersham if the Board of Fisheries allocates now to meet the federal subsistence mandate.

MR. DERSHAM said it does not; it makes its decisions strictly under state law. So far, the federal board is making its decisions according to federal law on federal lands only. He said there are some incredibly difficult overlaying management schemes on places like the Kuskokwim and Copper Rivers with patchworks of federal and state lands. The Kenai Peninsula is another place where big problems might occur in the future.

SENATOR WAGONER moved Mr. Dersham's name for legislative confirmation to the Board of Fisheries to the full Senate for consideration.

CHAIR OGAN noted that without objection, the motion carried.

The committee took a brief at-ease.

CHAIR OGAN called Dr. Floyd Bouse to testify. He asked Dr. Bouse why he wants to subject himself to this "no good deed goes unpunished" board.

DR. FLOYD BOUSE said serving as a board member seems to be a sure way to make somebody mad. He said he has been involved in the process for a long time and does his best to make sure that everyone is treated equally. He has decided it is time to give service to the state. He intends to be a good student, bring a good attitude to the process and to try to be fair.

TAPE 03-40, SIDE A

SENATOR SEEKINS noted that Dr. Bouse has been a good friend for a long time. He has faith in his abilities and believes that he will represent all Alaskans well on this board.

SENATOR LINCOLN asked Dr. Bouse what he sees as the board's role in carrying out its mandate for a subsistence priority and whether he supports a constitutional amendment for a rural subsistence priority.

DR. BOUSE said he thinks the board's role is to implement legislation. He noted at this point the state does not really have a subsistence priority but where C&T determinations exist, the board has to implement them. He said, regarding whether or not he supports a constitutional amendment for a rural subsistence priority, he feels that question is too personal. He said he believes everyone should be treated equally.

The committee took a brief at-ease.

SENATOR LINCOLN asked Dr. Bouse his position on the reversal of the C&T determination for the Chitina dipnet fishery.

DR. BOUSE replied:

...I would ask the question of are we meeting the criteria that the board has set before them as for a C&T determination based on the history of the fishery and by the criteria that I understand, and my experience there - I started fishing there in '85 with a gentleman that started fishing in the '60s and I'm not sure who taught him how to fish down there but I can just tell you my personal experience is it's a lifetime experience that's multigeneration so to hear somebody say there isn't a multigeneration experience criteria that's being fulfilled there - I think it's an error. And I would argue with the board members and try to convince them that everybody deserves an equal shot in this life and that includes - I would have voted for a C&T determination on Chitina unless there's new information that really is relevant and that's what I would be looking for.

SENATOR LINCOLN asked if, before he made that determination, he would look at all of the information.

DR. BOUSE said he found the previous discussion curious because he was not aware that any important new information was brought

before the board. He said he has not read through all of the information and was not at that meeting.

SENATOR WAGONER cited a statement in a letter from Dr. Bouse that said we must find more good ideas and recognize the status quo is no longer possible and find ways to compete with the farmed fish industry. He agrees with Dr. Bouse. He said wild fish is beginning to find a niche in the domestic market and that needs to be pushed.

DR. BOUSE said that is his intent.

CHAIR OGAN said he would like to discuss his concerns about upper Cook Inlet management at another time.

DR. BOUSE said he believes it is a mistake to allow management to proceed in a haphazard way. He said the board must be very careful about incidental catches. He pointed out another issue that has come up in discussion is the False Pass fishery and incidental catches. He said it is something the board must look at because it cannot let things happen by accident much longer.

SENATOR LINCOLN asked Dr. Bouse to clarify his last statement.

DR. BOUSE said the board has to beware of letting things happen incidentally instead of using good management principles. He said he is a firm believer in meeting biological escapement goals and determining what those are. He said, in his opinion, the board must make sure that fish go home to spawn first. Many creeks are not getting enough returning fish.

SENATOR LINCOLN commented that Dr. Bouse's statement sounds as though he does not think the Board of Fisheries in the past has done exactly what he purports to do.

DR. BOUSE said he believes the board has worked hard but sometimes a question is so complicated it is difficult to find the right answer and takes continuing work.

SENATOR SEEKINS moved Dr. Bouse's name to the full Senate for consideration as a member of the Board of Fisheries.

CHAIR OGAN noted without objection, the motion carried.

5:25 p.m.

SB 185-ROYALTY REDUCTION ON CERTAIN OIL/TAX CRED

CHAIR OGAN asked Mr. Gary Carlson to testify.

MR. GARY CARLSON, Senior Vice President of Forest Oil Corporation, a major investor in Cook Inlet over the past five years, read the following testimony.

My testimony on SB 185 will focus on the maintenance of critical and scarce infrastructure associated with mature oil fields in the Cook Inlet. The platforms, associated pipelines, and related onshore facilities represent irreplaceable infrastructure, which may facilitate the exploration, discovery and development of as yet undiscovered reserves if their useful lives could be extended. Any delay in abandoning or decommissioning of this infrastructure will provide opportunities to the industry to develop smaller scale oil and gas prospects that won't stand the economics if new infrastructure needs to be developed. As the mature fields approach the economic life, the operators need to get creative and manage costs carefully, which includes changing the way they operate. They need the cooperation of their vendors and contractors to share these efforts. I believe it is appropriate for the state to step in as a partner also. This bill provides a way for the state to make a difference.

Keeping the Cook Inlet oil fields on line a few more years will maintain good jobs, provide local taxes, and the possibility of new development that could easily exceed any anticipated shortfall in the state revenues resulting from reducing the state's royalty.

I want to commend the bill sponsors and the Department of Natural Resources for their foresight in supporting this bill and I want to thank the committee for their opportunity to provide this testimony on this legislation. Thank you.

SENATOR WAGONER said he campaigned on this issue. He asked Mr. Carlson to expand on what losing the platforms could mean to the economy.

MR. CARLSON said as an independent explorer in Cook Inlet, Forest Oil looked at all of the infrastructure there and found it is critical to developing any new prospects to be able to

access that infrastructure. The mood of the operators in Cook Inlet has changed; there is now cooperation among competitors. Keeping the pipelines available and providing access to onshore and offshore facilities is critical for some of the small projects.

CHAIR OGAN asked Mr. Carlson if he is familiar with the areas [named in Section 1 of the bill] in which the royalty reduction will be allowed: Dolly, Grayling, King Salmon, Steelhead, and Monopod.

MR. CARLSON said he is.

CHAIR OGAN asked if the royalty reduction will take place if [production] drops below 1200.

MR. CARLSON said that is correct.

CHAIR OGAN asked Mr. Carlson if he is aware of the current production levels of those wells.

MR. CARLSON said he is not but he would guess the well closest to 1200 is Steelhead and that the range goes up to 4,000 or 5,000 barrels per day.

CHAIR OGAN asked which platforms Forest Oil owns an interest in.

MR. CARLSON said Forest Oil has an interest in the Steelhead, Dolly Varden, King Salmon, Grayling, and Monopod platforms.

CHAIR OGAN asked if Forest Oil has a sole or joint interest.

MR. CARLSON said Unocal is the operator and majority owner and Forest Oil owns approximately 47 percent of those facilities.

CHAIR OGAN asked how many platforms in Cook Inlet this legislation does not apply to.

MR. CARLSON said five other platforms and one small onshore field are not under secondary recovery. The operating costs are not as high.

CHAIR OGAN asked Mr. Myers to provide the committee with a map of the leases in Cook Inlet.

MR. MYERS agreed to do so.

SENATOR LINCOLN noted the sponsor statement says the intent of SB 185 is to encourage production in the marginal fields. She asked Mr. Carlson if he believes the legislation will do that.

MR. CARLSON said he thinks it could encourage putting off decommissioning those facilities for one to three years, depending upon the decline rate of the field itself, until they are uneconomical to operate. As an independent operator, it is critical to Forest Oil that the infrastructure remains. The development of one new field would far offset any small reduction in royalty to the state.

SENATOR LINCOLN asked what percent of Forest Oil's hire is out-of-state.

MR. CARLSON said all Forest Oil employees are residents.

SENATOR WAGONER added that Union Oil has very few, if any, out-of-state employees that work in Cook Inlet.

CHAIR OGAN thanked all participants and recessed the meeting to the call of the chair at 5:37 p.m.